

RD:RG
File No. PDC07-046

ORDINANCE NO. 28461

AN ORDINANCE OF THE CITY OF SAN JOSÉ REZONING CERTAIN REAL PROPERTY ON THE SOUTH SIDE OF HAMILTON AVENUE APPROXIMATELY 320 FEET EASTERLY OF MERIDIAN AVENUE (1560 HAMILTON AVENUE) TO A(PD) PLANNED DEVELOPMENT ZONING DISTRICT

WHEREAS, all rezoning proceedings required under the provisions of Chapter 20.120 of Title 20 of the San José Municipal Code have been duly had and taken with respect to the real property hereinafter described; and

WHEREAS, a Mitigated Negative Declaration (MND) was prepared for a previous Conditional Use Permit under File No. CP02-008, and said MND was adopted on November 15, 2006, which adoption was not protested, challenged or appealed; and

WHEREAS, the City Council of the City of San José is the decision-making body for the proposed subject rezoning to A(PD) Planned Development Zoning District; and

WHEREAS, this Council of the City of San José has considered and approves said MND prior to taking any approval actions on this project.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF SAN JOSÉ:

SECTION 1. All that real property hereinafter described in this section, hereinafter referred to as "subject property," is hereby rezoned as A (PD) Planned Development Zoning District.

The base district zoning of the subject property shall be A Agricultural. The PD zoning of the subject property shall be that development plan for the subject property entitled, "Planned Development Zoning for Tomato Thyme," **last revised September 10, 2008.**

Said General Development Plan is on file in the office of the Director of Planning and is available for inspection by anyone interested therein, and said General Development Plan is by this reference adopted and incorporated herein the same as if it were fully set forth herein.

The subject property referred to in this section is all that real property situated in the County of Santa Clara, State of California, described in Exhibit "A" attached hereto and incorporated herein by this reference.

SECTION 2. The district map of the City is hereby amended accordingly.

SECTION 3. The land development approval that is the subject of City File No. PDC07-046 is subject to the operation of Part 2.75 of Chapter 15.12 of Title 15 of the San José Municipal Code. The applicant for or recipient of such land use approval hereby acknowledges receipt of notice that the issuance of a building permit to implement such land development approval may be suspended, conditioned or denied where the City Manager has determined that such action is necessary to remain within the aggregate operational capacity of the sanitary sewer system available to the City of San José or to meet the discharge standards of the sanitary sewer system imposed by the California Regional Water Quality Control Board for the San Francisco Bay Region.

PASSED FOR PUBLICATION of title this 2nd day of December, 2008, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CONSTANT, LICCARDO,
NGUYEN, OLIVERIO, PYLE, WILLIAMS; REED.

NOES: NONE.

ABSENT: CORTESE.

DISQUALIFIED: NONE.

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk